

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

| | | |
|-----------------------------|---|---------------------------|
| TOUCHCOM, INC. and TOUCHCOM |) | |
| TECHNOLOGIES, INC., |) | |
| |) | |
| Plaintiffs, |) | |
| |) | |
| vs. |) | No. 1:07-cv-00114-JCC-TCB |
| |) | |
| |) | |
| BERESKIN & PARR and |) | |
| H. SAMUEL FROST, |) | |
| |) | |
| Defendants. |) | |
| |) | |
| |) | |
| |) | |

**NOTICE OF PLAINTIFF'S COUNTER-DESIGNATIONS TO DEFENDANTS'
DEPOSITION AND ARBITRATION TESTIMONY DESIGNATIONS**

Plaintiff Touchcom Technologies, Inc. ("Plaintiff") hereby submits the following index of counter-designations to the deposition and arbitration testimony identified in Defendants' Deposition Designations (Docket No. 237). Plaintiff reserves the right to use any of the Defendants' designations at trial. Plaintiff reserves the right to decline to present the counter-designated testimony. Plaintiff further reserves the right to revise or withdraw any of its designations and assert different or additional designations in light of any Court ruling or as may be otherwise permitted by the Court.

By providing the following counter-designations, Plaintiff does not admit to the admissibility of any deposition or arbitration testimony designated by Defendants. Plaintiff expressly reserves the right to object to Defendants' designations according to the schedule agreed to by the parties.

Counter-Designations to Defendants' Designated Deposition Testimony

| Witness | Deposition Date | Counter-Designations |
|--------------------------------|------------------------|--|
| Bond, John Steven ¹ | 10/25/2005 | 17:22-18:8, 39:2-7, 39:10-40:9, 40:12-20, 40:23-41:18, 46:21-47:5, 55:6-56:2, 56:10-57:11, 60:14-62:11, 62:12-20, 67:21-68:16, 74:1-7, 76:22-77:10, 81:25-83:6, 83:23-84:5, 85:9-17, 97:2-16, 104:25-105:15, 113:19-114:3, 118:1-5, 118:7-119:4, 123:5-12, 125:25-126:18, 130:19-131:6, 183:2-5, 192:9-15, 199:7-12, 200:18-24, 201:6-9, 202:20-23, 202:25-203:5, 203:8-16, 203:25-204:5, 208:2-5, 208:7-16, 208:25-209:3, 209:5-10, 210:17-19, 210:21-211:3, 211:5-17, 211:20-24, 212:1-2, 212:5-22, 212:24, 219:23-220:1, 220:3-16, 223:24-224:9, 224:13-15, 224:17-225:14, 228:6-8, 277:16-278:2, 281:5-10, 281:22-282:10, 282:12-283:11 |
| Cooper, Carl | 11/7/2005 | 21:7-10, 35:5-13, 37:1-38:2, 38:23-40:4, 50:14-51:2, 82:6-14, 86:15-87:10 |
| Disher, Robert | 4/27/2005 | 2:21-3:5, 3:10-20, 3:21-24, 4:7-15, 9:1-16, |

¹ The parties have identified a discrepancy in the page numbering of the transcripts used by Touchcom and Defendants, respectively, for their initial designations. The counter-designations listed here correspond to the PDF transcript provided by Defendants to Touchcom on September 1, 2011. The parties have agreed to conform their designations, counter-designations and counter-counter-designations to this transcript version.

| Witness | Deposition Date | Counter-Designations |
|-----------------|-----------------|--|
| | | 9:25-10:3, 17:17-19, 17:24-18:2, 33:21-36:1, 36:2-12 |
| Ellard, Jaired | 10/18/2005 | 10:17-25, 36:16-21, 40:7-8, 41:11-11, 41:18-18, 70:7-18, 70:19-25, 71:1-4, 71:6-6, 72:23-73:1, 73:24-74:9, 74:13-16, 74:17-20, 74:22-22, 74:24-75:6, 75:7-11 |
| Hollidge, Peter | 8/6/2004 | 11:23-12:7, 14:2-15:11, 15:14-17, 15:18-16:10, 16:11-17:16, 17:17-18:2, 18:15-19:10, 24:18-25:20, 27:7-28:2, 35:5-9, 43:12-23, 51:1-5, 51:6-52:6, 53:2-14, 58:19-24, 59:15-24, 62:8-23, 64:9-21, 64:22-24, 68:8-16, 68:17-24, 82:10-15, 83:12-84:6, 84:7-13, 86:16-24, 149:15-21, 150:3-4, 150:13-151:2, 152:17-17, 156:4-10, 162:17-163:3, 163:4-24, 169:3-19, 193:16-194:4, 194:5-18, 194:19-195:4, 198:4-16, 201:5-10, 202:20-21, 202:22-203:18, 208:15-209:1, 209:2-4, 232:5-9, 232:10-13, 245:14-246:9, 246:10-247:10, 269:1-14, 269:15-270:12, 270:13-271:2, 272:21-273:8, 273:9-274:12, 275:11-276:1, 276:7-277:24, 280:3-7, 283:23-284:8, 287:1-10, 289:21-290:5, 290:13-17, |

| Witness | Deposition Date | Counter-Designations |
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| | | 301:12-302:4,302:16-303:4, 309:1-18, 310:6-10 |
| Hollidge, Peter | 4/27/2010-4/28/2010 | 3:24-4:11, 4:16-21, 8:15-9:22, 11:17-12:13, 75:7-76:6, 89:15-18, 90:17-22, 91:5-12, 91:25-92:3, 94:7-13, 95:14-18, 99:19-21, 100:12-16, 100:25-101:10, 102:11-13, 103:14-16, 103:19-22, 104:25-105:13, 116:23-117:25, 124:7-14, 124:23-125:10, 126:7-12, 133:10-15, 147:4-11, 163:24-164:18, 168:16-23, 202:15-24, 213:7-7, 219:3-13, 221:21-222:4, 222:18-20, 223:4-10, 223:12-14, 223:16-16, 225:15-25, 232:4-12, 233:24-234:10, 235:3-6, 235:12-14, 235:18-23, 240:3-13, 267:5-6, 293:23-24, 305:7-23, 322:24-323:3, 329:3-330:11, 330:12-14, 330:17-23; Errata Sheet |
| Hollidge, Peter | 8/3/10 | 6:18-24, 7:25-8:8, 8:10-11, 9:18-20, 10:1-2, 11:12-14, 22:13-16, 22:18-21, 37:17-38:3, 55:14-14, 55:16-17, 55:19-56:2, 56:3-5, 56:5-19 |
| Martinez, Carlos | 5/20/2010 | 6:4-6, 27:11-13, 28:30-29:18, 39:21-23, 41:4-12, 46:5-9, 47:2-8, 49:16-19, 52:19-53:1, 54:16-21, 55:23-56:5, 60:23-61:8, 61:9-19, 61:20-25, 62:15-18, 62:19-63:10, 63:18-64:5, 65:20-23, |

| Witness | Deposition Date | Counter-Designations |
|---------------------------|-----------------|---|
| | | 66:12-18, 66:19-21, 66:22-67:10, 84:22-85:15, 87:1-15, 90:15-19, 91:2-4, 91:21-25, 105:7-106:22, 108:19-22, 108:23-109:3, 109:17-20, 110:21-23, 112:25-113:1, 114:12-23, 124:3-4, 128:9-10, 145:1-2 |
| Myers, Jr., Peter Caverno | 7/26/2004 | 5:6-7, 8:11-13, 8:14-18, 27:25-28:5, 36:9-38:8, 40:22-25, 41:14-19, 76:4-9, 76:10-14, 76:24-77:7, 88:4-16, 94:18-21, 95:1-11, 95:12-14, 101:25-102:5, 102:6-10, 106:19-107:3, 108:13-18 |
| Olsson, Mats E. | 6/3/2010 | 16:3-9, 19:3-11, 23:23-24:7, 31:11-21, 32:3-14, 35:15-36:11, 47:9-21, 48:2-5, 59:4-5, 60:15-20, 61:6-10, 62:16-23, 64:11-17, 65:7-24, 65:25-66:19, 106:15-107:4, 116:11-12, 121:24-122:1, 177:5-9, 179:8-13, 182:3-25, 184:12-18 |
| Ross, Norman W. C. | 8/4/2004 | 7:19-21, 23:10-18, 23:19-21, 29:9-14, 36:21-37:1, 62:23-63:6, 63:7-64:2, 64:3-9 |
| Ryan, John P. | 8/28/2004 | 4:12-17, 5:21-7:1, 12:10-13:5, 13:14-14:9, 15:1-13, 20:14-17, 20:19-20, 21:14-23:5, 23:20-25, 36:11-37:6, 41:3-25, 42:3-13, 43:11-15, 43:16-44:3, 44:4-23, 45:5-46:10, 46:17-20, 46:21-47:11, 78:6-10, 78:17-79:3, 79:5-14, 79:19-80:1, |

| Witness | Deposition Date | Counter-Designations |
|-------------------------|-----------------|--|
| | | 80:2-5, 80:6-20, 80:22-24, 81:1-1, 82:12-17 |
| Street, Richard F. | 4/26/2005 | 9:16-24, 11:15-13:7, 13:8-11, 13:12-14:2, 14:3-16:6, 17:17-19:2, 75:5-77:19 |
| Taylor, Kenneth William | 7/27/2004 | 7:15-8:7, 8:13-9:4, 13:16-24, 18:10-20, 20:19-20, 23:1-8, 23:11-13, 23:21-24:2, 24:15-21, 25:17-26:3, 26:4-12, 33:21-34:14, 39:21-40:15, 53:2-12, 75:3-78:7, 78:7-9, 84:3-5, 84:10-14, 90:17-91:25, 95:4-96:14, 102:5-10, 104:7-14, 105:2-5, 106:20-108:2, 108:3-109:6, 110:24-111:7, 111:25-112:18, 112:20-113:5, 121:16-16, 123:21-124:2, 126:24-127:12, 135:5-22 |
| Wakim, A. Samuel | 8/5/2004 | 13:17-14:15, 35:10-13, 37:2-6, 37:7-38:4, 39:2-9, 41:3-9, 41:11-22, 42:12-22, 45:14-46:4, 52:3-6, 54:13-55:8, 69:17-70:21, 199:11-17, 199:21-22, 199:23-24, 201:4-9, 202:1-3, 202:6-11, 222:16-223:10, 225:22-226:8, 248:21-249:8, 249:14-250:1, 250:10-20, 266:11-12, 268:8-14, 270:7-18, 275:3-6 |
| Wakim, A. Samuel | 6/14/10 | 6:6-6, 7:7-8:16, 13:20-14:12, 15:12-16:4, 16:5-17:7, 17:23-22:6, 69:12-14, 91:19-92:11, 157:9-23, 165:9-13, 169:10-170:6, 170:9-11, 171:15-172:14, |

| Witness | Deposition Date | Counter-Designations |
|-----------------|-----------------|---|
| | | 174:4-175:3, 175:13-17, 177:4-15, 177:16-23, 178:5-9, 178:10-24, 180:16-181:8, 189:6-13, 196:2-197:5, 197:14-198:25, 209:20-24, 229:12-13, 245:2-17, 263:21-264:10, 264:11-14, 264:23-265:5, 265:7-16, 266:19-268:8, 273:9-10, 291:16-293:8; Errata Sheet |
| Wilkes, Robert | 5/26/2010 | 9:1-9, 34:25-36:4, 40:17-41:7, 41:17-24, 42:2-4, 45:12-17, 56:9-57:9, 60:6-10, 62:15-64:2, 64:3-65:10, 67:22-68:5, 68:6-9, 68:10-12, 69:2-9, 78:23-79:3, 79:8-13, 87:12-88:23, 90:11-23, 91:10-92:8, 92:9-22, 138:16-139:1, 139:10-140:7, 140:8-141:1, 144:2-19, 144:21-145:12, 145:13-22, 145:24-146:2 |
| Yienger, Daniel | 6/29/2010 | 12:12-18, 13:3-10, 17:17-18:10, 21:5-7, 21:11-13, 21:17-23, 27:18-23, 33:5-10, 50:1-5, 50:23-51:2, 52:16-17, 52:18-53:2, 55:1-12 |

Counter-Designations To Defendants' Designated Arbitration Testimony

| Witness | Counter-Designations |
|-----------------|---|
| Hollidge, Peter | 782:7-8, 790:4-19, 793:17-22, 807:1-15, 812:20-815:1, 932:18-933:6, 936:2-11 |

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| Myers, Jr., Peter Caverno | 273:13-16, 276:14-277:2, 282:4-283:13, 286:8-15, 290:20-292:19, 296:16-297:6, 300:5-13, 322:16-324:10, 347:15-349:1, 381:17-382:16 |
| Ross, Norman W.C. | 709:5-7, 740:3-6, 754:18-756:3, 756:14-760:20 |
| Taylor, Kenneth William | 431:19-432:17, 434:17-435:16, 447:11-449:1, 449:15-450:6, 480:19-482:15, 492:12-496:1, 500:11-8, 509:21-510:1, 519:4-520:11, 527:13-529:11, 548:22-550:22, 563:20-564:3, 568:22-569:21, 570:4-571:7, 593:16-597:4, 599:3-21, 601:5-602:7, 628:7-629:19, 676:8-679:6, 694:6-695:10 |

Respectfully submitted this 2nd day of September, 2011.

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CERTIFICATE OF SERVICE

I hereby certify that, on this date, September 2, 2011, I will electronically file the foregoing PLAINTIFF'S DEPOSITION AND ARBITRATION TESTIMONY COUNTER-DESIGNATIONS with the Clerk of Court using the CM/ECF system, which will send a notification of such filing (NEF) to the following:

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